

CLEARY GOTTlieb STEEN & HAMILTON LLP

WASHINGTON, DC  
PARIS  
BRUSSELS  
LONDON  
FRANKFURT  
COLOGNE  
MOSCOW

ONE LIBERTY PLAZA  
NEW YORK, NY 10006-1470  
(212) 225-2000  
FACSIMILE (212) 225-3999  
WWW.CLEARYGOTTLIEB.COM

ROME  
MILAN  
HONG KONG  
BEIJING  
BUENOS AIRES  
SÃO PAULO  
ABU DHABI  
SEOUL

June 22, 2015

VIA ECF

Honorable Judge Richard M. Berman  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Courtroom 17B  
New York, NY 10007

Re: Rio Tinto plc v. Vale S.A., et al., Civil Action No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.)

Dear Judge Berman:

We write jointly on behalf of all appearing defendants to bring to the Court's attention four decisions rendered in this District and by the Second Circuit after briefing was complete that bear directly on defendants' pending motion to dismiss the Amended Complaint and thereby on defendants' motion for a stay:

- *Jus Punjabi, LLC v. Get Punjabi Inc.*, No. 14 Civ. 3318 (GHW), 2015 WL 2400182, at \*10 (S.D.N.Y. May 20, 2015) (Woods, J.) (dismissing RICO claims where the alleged scheme was inherently terminable and the alleged goal had been accomplished);
- *Aronov v. Mersini*, No. 14 Civ. 7998 (PKC), 2015 WL 1780164, at \*6 (S.D.N.Y. Apr. 20, 2015) (Castel, J.) (dismissing RICO claims where the alleged "discrete and relatively short-lived scheme to defraud" was inherently terminable);
- *7 W. 57th St. Realty Co., LLC v. Citigroup, Inc.*, No. 13 Civ. 981 (PGG), 2015 WL 1514539, at \*22-23 (S.D.N.Y. Mar. 31, 2015) (Gardephe, J.) (dismissing RICO claims as time-barred, rejecting fraudulent concealment argument for failure to investigate, and declining to find jurisdiction based on acts of alleged co-conspirators);
- *Deswal v. U.S. Nat. Ass'n*, No. 14 Civ. 2169, 2015 WL 1061641, at \*2 (2d Cir. Mar. 12, 2015) (Calabresi, J., Hall, J., Rakoff, J.) (affirming dismissal as time-

barred and rejecting fraudulent concealment argument because plaintiffs failed to establish they pursued their claims with the requisite diligence).

For the Court's convenience, a copy of each of these decisions is enclosed.

Respectfully submitted,

/s/ Lewis J. Liman

Lewis J. Liman

cc: All counsel of record (via ECF)